

REVISED

**PROPERTY AND RIGHT-OF-WAY COMMITTEE MEETING
CITY HALL, 8TH FLOOR
COMMISSION CONFERENCE ROOM
THURSDAY, MARCH 20, 2008 – 10:00 AM**

BOARD MEMBERS PRESENT

Mike Fayyaz, City Engineer
Bob Dunckel, Assistant City Attorney
Tom Terrell, Public Works Maintenance Manager
Mark Darmanin, Utilities Distr. & Collections Manager
Kim Clifford, Parks and Recreation
Tony Irvine, Surveyor
Ella Parker, Planning and Zoning
Victor Volpi, Senior Real Estate Officer

STAFF AND GUESTS

Ron Muller	Safiya Goombs
Michael Guerrieri	Neil Schiller
Patricia Guerrieri	Kevin Perkins
Sam Khoury	Heidi Davis
Alex Khoury	Marisa Bennett
Harry Hipler	Alex Bramer
Dennis Girisgen	Frank Snedaker
Diana Alarca	Hilda Testa, Recording Clerk, Prototype, Inc.

CALL TO ORDER

Mr. Fayyaz called the meeting to order at 10:07 a.m., and stated this was a Committee with the responsibility of advising the City Manager and City Commission on matters connected with City property and public rights-of-way.

Following roll call, it was determined that a quorum was present.

ITEM ONE: **APPROVAL OF FEBRUARY 21, 2008 MINUTES**

Motion made by Mr. Darmanin, seconded by Mr. Dunckel, to approve the minutes of the February 21, 2008 meeting. In a voice vote, the motion passed unanimously.

ITEM TWO: **EASEMENT FOR SIDEWALK**

Address or

General Location: Broadview Park, Unincorporated Broward County (south of Davie Road and west of 441)

Mr. Volpi read this item into the record stating that the applicant was requesting a positive recommendation to grant easements to Broward County to facilitate improvements to Broadview Park, located at SW 21 Street and SW 43 Way. Chen and Associates have designed certain neighborhood improvements that include sidewalks, roadways, landscaping and sewers in this area. The City owns property at the location, which has been leased to Broward County Schools (Meadowbrook Elementary) and land abutting the property (currently well fields); there are no sidewalks.

Mr. Fayyaz asked for a map of the area. Although Ms. Goombs did not have maps, she described the area as south of Davie Road and west of 441. Ms. Goombs explained there was currently an old asphalt sidewalk on the north side of 21st Street, and a roadway on the City's property. The application would propose milling and resurfacing of the road, and installation of a concrete ADA-compliant sidewalk on both sides of the road adjacent to the school. The catch basin would need to be relocated and would tie in with the same line.

Mr. Fayyaz asked if the property on SW 43 Way was a right-of-way or an easement. Mr. Irvine stated this was an easement on City property. Ms. Goombs explained the property was a paved roadway with no current easement. Mr. Terrell stated he did not believe the area was "previously a well field" as stated in the letter; however, Mr. Volpi explained the area is still a well field, but was being leased. Mr. Fayyaz asked if the park was under the City's control and Mr. Terrell explained the area was not a park, but a well field.

Mr. Dunkel asked about the lease mentioned in the letter. Mr. Volpi explained the elementary school had needed the land to allow for development. Mr. Dunkel stated if the area lies within a leasehold interest for the School Board, a joinder and consent would be needed from the School Board. Ms. Goombs stated none of property was within the school lease according to the survey. Mr. Darmanin clarified the property on the north side of Davie Boulevard adjacent to the school contained a well, and that property was under a lease agreement, not the property under consideration.

Mr. Terrell stated the area appeared to be large vacant lots with two wells within unincorporated Broward County. Mr. Darmanin stated the property is on the list for future Florida wells. Mr. Dunkel requested information regarding the proposed use of the easement, and asked if the use would conflict with the City's future proposed uses. Mr. Darmanin stated he was unable to say at this time, and explained there were

existing wells 17 and 18 in the area. Mr. Darmanin explained the applicant was asking to repave a road on City property and allow for an easement for a sidewalk. Mr. Darmanin continued by saying since there was a question on future well heads, there would be restrictions per the Florida Administrative Code, and would require 100 feet distance from the well head.

Mr. Terrell suggested the Committee did not have enough information to make a decision, and felt it would be helpful to have the aerials of the area. Mr. Dunckel asked if the extension of 21st Street was eliminated as a roadway easement would the area be needed for utility purposes, to which Ms. Goombs replied it would not.

Mr. Dunckel summarized by saying the right-of-way was presently 30 feet, and the applicant was requesting an additional ten feet. Mr. Dunckel did not feel that an additional ten feet would not be a problem, but asked about easements needed in the ten-foot strip. Ms. Goombs stated easements would not be needed, and the ten feet would be to allow for clearance.

Mr. Fayyaz stated the use and purpose should be very clearly stated. Mr. Terrell explained the primary purpose of the land is a well field, and the City would need to be able to reclaim even the ten-foot section if necessary. Mr. Fayyaz asked if the land was dedicated as a right-of-way, whether it would be under the control of the County and was advised if the land was dedicated as an easement, the City would retain control.

Mr. Irvine asked about granting a revocable license to place certain structures within City property instead of granting an easement. This would allow the City to retain control of the area. Mr. Dunckel questioned whether the County would accept the license proposal, but suggested language be put in the easement deed whereby the easement would "go away" if the area was needed for a superior municipal purpose.

Motion made by Mr. Dunckel, seconded by Mr. Darmanin, to recommend the granting of an easement for roadway purposes, to include a sidewalk, provided that there is limiting language within the easement that would have it terminate in the event that the City needed that ten foot strip for a superior municipal purpose relating to well fields. In a voice vote, the motion passed unanimously.

As to the fifty foot easement, Mr. Dunckel recommended deferral pending receipt of more detailed information.

Motion made by Mr. Dunckel, seconded by Mr. Darmanin, to continue consideration of the 50 foot easement. In a voice vote, the motion passed unanimously.

Mr. Darmanin agreed to email Mr. Volpi with additional information needed to reconsider the issue. Mr. Darmanin also agreed to meet with Ms. Goombs.

ITEM THREE

VACATION OF ALLEY

Address or
General Location: 3245 S Andrews Avenue

Mr. Volpi introduced this item stating that Neil M. Schiller, Attorney for A. G. Realty Fort Lauderdale, was requesting a positive recommendation to vacate what is left of an alley in Blocks D-1 & D-6 of Croissant Park, Dixie Cut-Off Section, Plat Book 6, Page 5B, as shown on Exhibit B.

Mr. Schiller provided PowerPoint handouts showing the alleyway being discussed and a brief history of the area. Mr. Schiller explained the application had evolved over time as more information has been received from the City.

Mr. Schiller stated the applicant, A. G. Realty, has owned the property for about 30 years. The alleyway had originally been gated at either end, and a neighbor had complained about the gates being locked. Mr. Schiller had appeared before Code Enforcement and the decision was made to submit an application to vacate the alleyway, followed by application for a valid permit for the gates.

In response to questions by Committee members, Mr. Schiller stated the gates are located in the alleyway on the north end of the applicant's property line. The applicant owns lots two through six of D-6 on the drawings. Mr. Schiller stated the gate was not currently relevant for the proposed vacation since there had been previous vacations:

- Ordinance 82.58 vacated SW 32nd Street and a portion of the alleyway.
- Ordinance 83.18 vacated all of SW 32nd Court.

As part of the application, Mr. Schiller noted the criteria under 47.-24.6.4 of the ULDR, the right-of-way or other public place is no longer needed for public purposes.

Mr. Irvine expressed concern that the representation being made was not accurate, stating the alleyway was not split by Ordinance 83.18. Mr. Schiller felt sure the entire SW 32nd Court was vacated by the ordinance. Mr. Irvine produced a copy of the ordinance and noted the ordinance vacates 32nd Court, leaving the curve going into the alley. Mr. Irvine noted there was a connection from Andrews Avenue, through the alley, down to 33rd. Mr. Irvine stated the ordinance was limited and did not vacate any portion of the alley, leaving a 15 foot access from Andrews Avenue to the alley to continue the access.

Mr. Schiller stated the alleyway has not served a public purpose since 1983 due to previous vacations. He further explained area growth and the rezoning process to B3. Mr. Schiller stated there were objections to the vacation, and the applicant had allowed for an eight foot access license which could be an easement to the rear of the objector's property. The applicant would also allow for access for another objector who would not have direct access from the alleyway or 32nd Court. According to Mr. Schiller, the objector wanted to add a second story to his home and use the alleyway for parking. Mr. Schiller noted the alleyway could not be used for parking.

Mr. Schiller apologized for the error in the presentation, and requested the Committee approve the application.

Mr. Fayyaz opened the meeting for public comment. Mr. Harry Hipler, an attorney representing the Khourys, stated that the Khourys own the property right in the middle. Mr. Hipler stated the vacation created a hardship for the Khourys, as their property was located in the middle. The Khourys have expressed a desire to expand. Mr. Hipler provided a letter from the Khourys along with photographs.

Mr. Hipler stated the "innocent misrepresentation" by Mr. Schiller had been going on for years, and the alleyway had been public prior to 2006 and providing open access. Mr. Hipler stated since 2006, the gates had been closed and locked.

Mr. Hipler provided photographs showing A. G. Realty had been using the alleyway as storage, and a vacation would allow for even more storage usage. Mr. Hipler stated the alleyway is a public right-of-way and should remain that way. Mr. Hipler stated A. G. Realty was using the property for financial gain, and asked the Committee to consider the hardship caused for the adjoining property owners. Mr. Hipler requested the alleyway be left as is, with the exception of opening the gate.

Mr. Bramer, an architect, explained the alleyway had been a part of the Dixie Cutoff, platted in 1925, and was meant to connect behind the properties, allowing access to the properties for parking and fire access. Mr. Bramer stated there had been a locked gate between lots two and three, and between lots six and seven, preventing access through the alley towards 33rd Street. Mr. Bramer stated the gates had been opened periodically for septic service.

Mr. Bramer stated there had been a meeting in July with Bob Gilford from the City of Fort Lauderdale, who saw the gate, noted there was no permit for the locked gate, and there was no record of any vacation or right to use that alleyway.

Mr. Bramer stated the property owners are planning on expanding, and even though parking was not allowed in the alley, they are entitled to access their own property for parking. Mr. Bramer also referenced issues with servicing property septic services.

Mr. Darmanin asked if anyone was present representing the Momoni property. The representative for the Momoni property stated they had been on the site for 26 years, and thanked the Committee for providing clarification on the right-of-way.

Mr. Alan Guerrieri, a property owner since 1976, stated there was a gate at each end of the alleyway, which had originally been left open. The gate has been closed and locked for 30 years. Mr. Guerrieri stated the alleyway had not been publicly accessible in 2006.

Mr. Dunckel stated a prudent attorney would have done a title search and found out there had never been a vacation with regard to the gate, and would have advised the client that the gate was supposed to remain open.

Mr. Schiller stated the objectors stated they were not planning to use the alley for parking, but a letter from the objector's counsel specifically stated the back of the Khoury building could be used as parking.

Motion made by Mr. Irvine, seconded by Mr. Dunckel, to recommend vacation of the alley as presented. Mr. Fayyaz opened the motion for discussion.

Mr. Irvine stated it was obvious in 1983 when 32nd Court was being vacated, there had been an effort to provide access from Andrews Avenue to 33rd, and to the north. Mr. Irvine felt the alley was needed and was probably essential for the Khourys and the Momonis to make lawful use of their property.

Mr. Darmanin asked if the vacation to the north had been done later, to which Mr. Irvine responded the vacations had been done at different times.

Mr. Dunckel stated the alley still serves a public purpose and was relied upon for access.

In a voice vote, the motion failed unanimously.

ITEM FOUR

VACATION OF UTILITY EASEMENT

Address or

General Location: westbound from 7 Avenue, just north of NE 5 Street

Mr. Volpi introduced this item stating that 5th Street FTL Partners, LLC was requesting a positive recommendation to vacate a portion of a ten foot utility easement (that was an alley) running west from 7th Avenue, just north of NE 5th Street. The applicant will be

dedicating a 20 foot utility easement elsewhere on the property to relocate any existing utilities.

Ms. Heidi Davis, representing the applicant, provided maps of the proposed area, and stated the applicant is proposing to vacate the area currently being used only as a utility easement. The alley was previously vacated, and the current vacation would allow for development of a Staples on the site.

Mr. Kevin Perkins, also representing the applicant, stated the water and sewer would be relocated through the alley, and connecting into the existing sewer and water. Comcast and AT&T lines would be placed along the right-of-way connecting to the overhead lines. FPL does not maintain continuity.

Ms. Davis stated there would be a ten foot easement on the property for Comcast and AT&T, and a utility easement over the alley easement, plus an additional five feet, for a total of 20 feet.

Mr. Darmanin stated the applicant had been through a painstaking process to maintain the utilities, and felt the applicant met all requirements for City utilities.

Mr. Irvine asked for information regarding the age of the water line currently in the easement. The applicant was unable to give the exact age of the water line, and Mr. Irvine expressed concern with using an old line connected to new connections. Ms. Davis explained the applicant would be bypassing the old water line and connecting to a shunt.

Motion made by Mr. Dunckel, seconded by Mr. Irvine, to recommend as presented. In a voice vote, the motion passed unanimously.

ITEM FIVE

VACATION OF ALLEY

Address or

General Location: east of NE 3 Avenue, west of NE 4 Avenue, north of NE 5 Street
and south of NE 6 Street

Mr. Volpi introduced this item stating the City staff was requesting a positive recommendation to vacate a portion of the 15 foot alley running north and south in Block 3 of Amended Plat of North Lauderdale (I-182), east of NE 3rd Avenue, west of NE 4th Avenue, north of NE 5th Street, and south of NE 6th Street.

The alley splits a new park at the north end of this block (Flagler Park). It was noted that it is dangerous to have vehicles driving through the property. An easement will be retained for all utilities as necessary and the alley will have a proper turn around.

Mr. Snedaker, Chief Architect, stated the property had been acquired through the CRA, and required submission of a small, conceptual plan. The buildings have been demolished, the grounds have been irrigated, and a perimeter fence has been installed. Mr. Snedaker stated the empty alley was being used as a thruway, putting park pedestrians in jeopardy. The alleyway would eventually be closed off when the park is fully developed, but the City would like to close the alley since it was being used by vehicles.

Mr. Snedaker stated an overhead power line would be moved underground, the sewer lines and other utilities would be maintained through easements, and a turn around would be added at the north end of the termination.

Mr. Darminan asked about the southern portion of the sewer line. Mr. Snedaker stated there was the Chamber of Commerce as well as low density residential property nearby. The west side of the block was also occupied.

Mr. Irvine asked about rerouting the alley along the southerly boundary line to alleviate the need for a turn around. Mr. Snedaker stated the preference was to use a turn around, as the turning radius allowance needed would take more land. Mr. Irvine stated the site is currently obstructed due to construction, but there are people using the alley and 4th Avenue for access.

Ms. Parker felt a continuous line with a connection to 4th Avenue would be better. Mr. Snedaker described the alley as 15 feet, with approximately ten feet paved. No signage identified the alley as one way; however, Ms. Parker pointed out that the width of the roadway did not allow for two way traffic. Mr. Snedaker stated there were three means off the alley to parking lots to the east and to the west currently; the alleyway was not a full dead end because there were access points in both directions.

Motion made by Mr. Dunckel, seconded by Mr. Irvine, to recommend approval of the vacation of the alley through the park, and retention of the utility easement through the vacated alley, contingent upon continuation of the alley eastbound through the park at the southern boundary out to NE 4th Avenue.

Mr. Irvine suggested the motion be amended to include the circulation of the alley be looked at by engineering, and some decision made as to the signage and the direction of flow. Mr. Dunckel did not feel that was necessary for the purposes of the vacation, but agreed to the amendment.

Ms. Parker opposed the motion until the new site plan is made available for review. Mr. Darmanin asked about sewer access for the manhole in the middle of the park. Mr. Snedaker explained gates would be provided for utility access. Mr. Irvine suggested the

alley be vacated only from 6th Street to the south lines of lots 23 and 24 to avoid denying access to the adjacent property owners.

In a voice vote, the amended motion passed 7-1, with Ms. Parker dissenting.

OLD BUSINESS

Address or
General Location: 411 NE 5 Street

Mr. Dunckel reminded the Committee that Trammel Crow was developing an area bounded on the north by 6th, bounded on the south by 5th, bounded on the west by 4th Avenue, and on the east by 5th Avenue. In the revocable licensing process, it was learned that Trammel Crow plans on replacing water and sewer mains down 4th Avenue. Mr. Terrell stated the Committee had been made aware of the situation. Mr. Dunckel recollected the road closure would be partial instead of the full road closure being requested in the license.

Mr. Irvine remembered that access would be maintained throughout construction for the property owners along 4th. Mr. Terrell stated the road would be closed to through traffic, but the property owners would still be able to access their properties. Mr. Dunckel stated Trammel Crow would provide flag men and limited access. Mr. Irvine stated construction on NW 4th Street is periodically closed, with flag men to allow for non-through traffic. Mr. Dunckel stated the attorney's presentation appeared to call for a full road closure, and Mr. Dunckel wanted to make sure the Committee was aware of the situation.

There being no further business to come before the Committee the meeting adjourned at 11:15 a.m.

[Minutes prepared by K. Bierbaum, Prototype, Inc.]